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ART. IV. — OUR ELECTORAL MACHINERY.

It is a curiosity of our electoral machinery, that while it still continues in active operation, and is working apparently as well as ever, it yet gauges the total departure that has been made from the political conditions for which it was originally devised. In nearly every respect its use is different from that which was intended. The framers of the Constitution thought that in the electoral college they had provided a carefully selected deliberative body, near enough to the people to feel public sentiment, and yet sufficiently removed to express with entire independence the national judgment, and who should thus choose the President and Vice-President of the United States "without fear, favor, or affection," to use Jefferson's words in another relation. Instead of this, we merely have the electors as so many expressions of the Presidential votes cast by their respective States, of no more personal independence, of no more political vitality, in fact, than the paper upon which their names are written; for eighty years' experience has not furnished a single instance of a Presidential elector casting his vote otherwise than as the organ of the party which procured his nomination. Here is a case, certainly, where the Fathers of the Republic, so accurate in their perceptions of the national wants in most respects, and so almost prophetic in their discernment of the national future in its essential drift, missed the mark entirely. Their mistake, however, has fared in practice not unlike "Lord Timothy Dexter's" venture of sending a cargo of warming-pans to the West Indies, where, with the covers wrenched off, those Northern utensils were found to work admirably as scoops for use at the sugar-mills. Still better scoops could undoubtedly have been made expressly for the business; and so in regard to our electoral machinery, time and again,—indeed, after every Presidential election,—agitation has sprung up in favor of substituting some other arrangement which shall be both more simple and safe, and at the same time more equitable and effectual,—a problem which, like so many others, it has been found easier to state than to solve.

The first point of consideration relates to the real objections resting against the present mode of choosing Presidents and Vice-Presidents. Generally, whenever this subject comes under consideration, there is pointed out a formidable list of faults, each one of which is assumed to be sufficient, if abetted by suitable and not improbable circumstances, to plunge the country into all the horrors of civil war. Forty-five years ago the Hon. Mr. McDuffie, of South Carolina, in the course of that speech in favor of the district system of choosing Presidential electors which was luridly lighted up by the celebrated passage on political corruption, so well known to our school-boys on declamation days, said to his Congressional hearers: "The destiny, not only of the rising millions that are to come after us here, but that of the whole civilized world, hangs trembling on *the issue of our deliberations!*" And yet nothing was then and there done, while the whole package of the perils of inaction was left to be unrolled afresh by Senator Morton at the last session of Congress. The truth is, the institutions of the United States repose on no such ticklish basis as to be upset by one imperfect or even fraudulent election, especially if the trouble is seen to come through defects of law. We have already had minority Presidents more than once chosen by the people, and we have had a President chosen by Congress when one of the defeated contestants was unmistakably the popular favorite; while there never has been an election exempt from charges, and, what is worse, some evidences, of fraud. It is precisely the same in the working of other parts of our political and governmental machinery, — rogues slip through the courts, bad judges may get on the bench, defalcations too frequently signalize unfit civil appointments, Congressmen, as we have seen, may prove far from immaculate, laws are sometimes passed which have to be speedily repealed, and even Presidents, duly installed, have been threatened with impeachment. All this, of course, affords no reason why any evil or defect attaching to our electoral system that can be remedied should be tolerated any longer; but it does warrant the assurance that, in the treatment of this question, there is no occasion for panic or for hurrying into any change which shall not prove a reform.

The objection to the present system which is more frequently

urged than any other is, that it throws the whole electoral vote of a State solidly on one side or the other, thus, as it were, annihilating the voice of a minority, of perhaps hundreds of thousands in a great State like New York, where a bare majority of votes may elect thirty-five Presidential electors, and so possibly neutralize the will of, say, five of the New England States, pronounced by heavy aggregate majorities the other way. It is an objection so valid that there is great danger of its being exaggerated. We will therefore copy the most cogent defence of the general system, as contrasted with the district system, that we remember to have met with, namely, the following passage in the speech of Edward Everett, delivered in the House of Representatives in 1826.

“I conceive the practical operation of the two systems to come nearly to the same thing. I say this on grounds of reasoning, and I am not aware that there is anything in experience to bring us to a different conclusion. On the general ticket system, supposing it to be generally adopted throughout the United States, the unrepresented majorities would be balanced by each other; or, in other words, the minority, whose voice is not heard in one State, on one side of the question, would be balanced by the minority, whose voice is not heard, in another State, on another side of the question. On the district system, the same result would take place. The minority *represented* in the electoral colleges, on one side of the question, in one State, would be balanced, and, being balanced, would be neutralized, by the minority represented in another State, on the other side of the question; and therefore, in their practical operation, there would be very little to choose between the two systems.”

It is really a question of the degree to which the political community shall be divided up, in voting for President and Vice-President. In the one case the States are units for choosing a body, larger or smaller, of Presidential electors; in the other, the districts are units for choosing one elector each. Precisely the same process which is now gone through with by Pennsylvania, for instance, in choosing its twenty-nine electors, would, under the district system, characterize the choice of its one elector by each district,—that is, the majority does and would elect, the minority is and would be absorbed; only, the whole minority of a State would be silenced in the

one case, while local sections of it might triumph in the other. Thus, owing to the greater minuteness of the division of the voting community under the district system, the sentiment of the country would be more accurately collected. If a State geologist were restricted to the exploration of but little more than half of the area of a State, in order to get the best idea he could of the whole of it, and if he could choose between making his inspection by counties and making it by towns, of course he would prefer the latter; for though the half of the counties selected for the purpose might give the average distribution of upland, meadow, and marsh, and of the different soils, formations, and other data required, yet half of the towns could be designated which would be much more certain to do so. In like manner, by the district system, as compared with the other, there is, so to speak, a closer fit, the points of contact with the voting mass are multiplied and more evenly distributed, and the risks of error are correspondingly diminished; the units are more and the fractions are less. Even where the aggregate results of the two systems would be about the same, — as probably they would be in most cases, — the *distribution* of the electoral votes would, in general, be more satisfactory under the district system. The Democratic minority in Massachusetts now may have its Presidential voting done by its kindred majority in Kentucky, but probably it would prefer to have the chance of doing its own voting by districts, — a preference equally shared by the Republican minority of Kentucky, now stifled. In short, it is perfectly clear that, in point of accurate expression of the voting sentiment of the country, the district system is decidedly to be preferred to the general ticket system.

And yet it is to be observed that, with the growth of the country, this disadvantage of the general system is practically becoming less and less. The States are more numerous, and the districts are growing numerically larger, so that the disparity between the two constantly lessens. The political tradition for more than half a century was that no man could be elected President without the vote of New York; but General Grant was so elected in 1868; and under the new census the vote of New York, or of any other large State, is less impor-

tant now than it was then. In fact, when our electoral system was first applied, in the Presidential election of 1792, the then largest State, Virginia, threw over fifteen per cent of the entire electoral vote ; in the election of 1812, New York, having then become the largest State, cast thirteen per cent of the total vote, while she now casts but nine per cent thereof. The change will appear still more marked if we look at it from another point of view. In the election of 1792, the combined vote of the four largest States very nearly equalled one half of the total electoral vote of the Union, while Virginia, Massachusetts, Pennsylvania, New York, and North Carolina — then the largest States in the order here mentioned — might, if united, have carried the Presidential election, with several votes to spare. In 1812, a majority of the electoral votes could still have been obtained from the five States of New York, Pennsylvania, Virginia, Massachusetts, and Kentucky. Now, however, a President cannot be elected by less than *eleven* of the largest States of the Union combined, viz.: New York, Pennsylvania, Ohio, Illinois, Indiana, Missouri, Kentucky, Tennessee, Virginia, Georgia, and Iowa. These facts go to show merely that the disadvantages of the general ticket system, as a method of collecting the sentiment of the people, and the dangers of local injustice arising therefrom, are steadily lessening with the growth of the country.

We ought also to remark that we consider the time as worse than thrown away which is spent in conjecturing the evils of any combination in politics between the large States against the small. There is only one issue that can ever thus divide the States of the Union, and that would be the proposition to take away the equality of powers (as in the representation in the United States Senate, and, based upon that, the equal fraction of representation in the electoral college) now guaranteed by the Constitution. As to all other questions, the large States have usually been found, and probably always will be, pretty equally divided between the opposing parties and the different sections of the country, so that they practically offset one another.

Connected with this consideration of the size of States, however, is the question of the relative exposure to frauds, — un-

happily coming to be of primary importance. A fraudulent ballot cast at a Presidential election in New York affects thirty-five electors, or nearly one fifth of the whole number requisite to the choice of a President. In Rhode Island such a ballot affects only three electors, or less than one sixtieth of a majority of the whole electoral college. Here is a direct bounty on the concentration of fraudulent efforts of all kinds in the large States, whereby not only a vicious influence of fearful intensity is thrown into the scale of a national election, but all the local elements of corruption, ever sufficiently formidable in our most populous States, are powerfully reinforced. The evidences of this mischief may be conceded as having already become sufficiently obvious in States like New York and Pennsylvania, and yet there is an occasional qualification here that ought not to be entirely overlooked. Pennsylvania, for instance, in the last Presidential election, threw 134,000 popular majority for Grant. Suppose that there was, and was only, a valid Republican majority in the State of not much over thirty thousand ; then upwards of one hundred thousand fraudulent votes would have been absorbed and shelved where they could do no harm to the result of the election ; whereas, if that or a similar amount of fraud had been distributed among smaller and closer States, it might have irresistibly controlled the national decision. If, then, the great States magnify the power of the individual ballot up to a certain point, beyond that they may nullify it to a corresponding extent. Practically, however, fraudulent attempts at the polls will always be made upon the supposition that they are to tell ; so that if a given large State is regarded as sure, either on one side or the other, the current of corruption will be directed elsewhere. Now, under the district system, on the other hand, a fraud upon the ballot-box can affect but one elector, unless two electors at large should be chosen by each State, in which case but three electors, at the most, could be affected by a given fraud. This would at once relieve the large States from the extraordinary pressure of corruption now weighing upon them ; and it would also relieve every Presidential election from the danger of being unduly vitiated, and perhaps controlled, by fraudulent votes turning the scale in one or more of the large States. In

this connection — as to the bearings of fraud — let us also inquire what would be the effect of an election of President and Vice-President directly by the people. We have seen that under the present system a fraudulent vote may carry all the Presidential electors of a State, with the contingency of being without effect when thrown in aid of a valid majority already existing in such State ; that under the district system the power of fraudulent votes throughout the Union would be made uniform, and cut down to its present minimum (that is, of affecting three electoral votes) ; now under the direct popular system of voting, with its practical obliteration of State lines, every fraud, wherever perpetrated, — whether in the large or the small States, in the metropolitan centres or on the frontier, — would be sure to tell on the result, would never be thrown away, unless it proved afterwards — and too late — that it was not needed. In other words, to sum up this branch of the matter, the district system localizes fraud and equalizes its power at a minimum ; the general ticket system magnifies it according to the varying size of States, subject to corresponding failure when a valid majority needs no such aids ; while the popular system nationalizes fraud and utilizes every fraction of it that can be made available.

While it is apparent that the working of our electoral machinery is wholly different from the theories and the intentions of the framers of the Constitution, that fact alone might not necessitate a change. Nothing is more curious in the history of governments than the occasional instances in which the genius of a people subdues to itself the institutions which were designed to direct it ; and we believe Dr. Paley argues in favor of having a certain latitude of laws, or an extra stock on hand, in order that the popular will may suit itself easily. At all events, it has come to pass that the electoral colleges of the States, which were meant to act independently, above the people and in disregard of parties, have never been anything but the passive and complete instruments of party. What was constructed as the brake on the coach of state has become only the lever for effecting the periodical oiling of the wheels. The fiction of the form, therefore, is of no account in comparison with the inefficiency in fact ; so that the only objections to

the present system worth considering are those which relate to points wherein its working is defective or is beset with possible dangers.

In this respect our electoral machinery deserves the greater part of the condemnation passed upon it by Senator Morton, in his speech in the Senate. To begin with it on election day, it does not allow the names of the two persons who are to be really voted for to appear on the tickets; but in their stead is a long list of names, so that it requires some degree of political training in the voter to know what he is about, while the liability to mistakes in the mere spelling of the names of so many candidates is an item of serious importance. Secondly, there are no means provided for settling contests arising between different sets of electors, so that, in such cases, Congress is compelled to choose between them, under circumstances seldom favorable for reaching a just decision. Thirdly, contingencies may prevent the electors from complying with the terms of the law in regard to the casting of their votes,—as was the case with the electors of Wisconsin in 1857, when they were prevented by a snow-storm from meeting at the time required. Fourthly, although the danger of the electors proving recreant to their trust, so that they shall not vote as designed by their nominators, has never yet been practically illustrated, yet it still exists; and as, under the changes to which our political condition is manifestly subject, it may become real, and as it can be removed, it is properly to be taken into account. Contingencies may arise which shall expose the electors to a dangerous test, as, for instance, the death of the successful candidate for the Presidency happening between the day of election and the meeting of the electors. Had General Grant died when Mr. Greeley did, the strain to which the Republican electors might have been subjected can be readily imagined. Fifthly, the constitutional directions in regard to opening and counting the votes in Congress are so vague that they are in danger of leading to grave abuses, as they have actually led to one, namely, “the twenty-second joint rule,” whereby the vote of either House serves to prevent the electoral vote of a State from being counted. Had the rule required the concurrent action of both branches of Congress,

in order to effect the suppression of the voice of a State in the exercise of so important a function, it would have been more in accordance with the regard due to the people of the United States when acting in discharge of their constitutional duties. As it is, there is nothing to excuse the arrogant pretensions of such a rule but the fact of its origin in an exceptional emergency, when the relations of several States to the Federal government were partially suspended, so that their electoral votes had need of extraordinary scrutiny,—which excuse, of course, ceased to be valid some time previous to the last Presidential election. The truth is, moreover, that the power to reject the electoral vote of a State ought never to be given to Congress; because, first, no State, except in the midst of rebellion or other abnormal exigency, should be subjected to the risk, in any form, of losing its vote for President and Vice-President; and, secondly, Congress is not the proper tribunal to decide such a question. Its definite constitutional power in the premises is confined to the *counting* of the electoral votes. The verification of the votes, the putting them in countable shape, should have been accomplished before this function of Congress begins. The folly of the existing mode of procedure is sufficiently seen in such a fact as this, namely, to determine the election of one of its own members, either branch of Congress may consume months of committee hearing, sending in the mean time for persons and papers, and may discuss the matter to the fullest extent; while, if the counting of the electoral vote of a State be objected to, the question, under the twenty-second joint rule, must be settled—and the action of *either* House will suffice to settle it—at once and without a word of debate, and therefore, practically, without any adequate examination! Sixthly, although the method of choosing Presidential electors in the several States has come to be quite uniform, we must remember that the Constitution still provides that each State may appoint its electors “in such manner as the Legislature thereof may direct,”—that is, they may be chosen as a body by the whole body of voters in the State, or separately by districts, or by the Legislature itself, or they may be appointed by the Governor or other designated agent (as the Supreme Court) of the State, or even, like jurors, they

may be selected by lot. As the causes which have of late years tended toward uniformity may yet lose their force and give way to those producing variety, and with variety unequal and unjust results, this prerogative should not be left with the State Legislatures.

With regard to that part of the constitutional machinery which, in the event of a failure to elect a President and Vice-President by the people, devolves the choice upon the House of Representatives, we think it needs no argument to pronounce it indefensible by any reasons founded in justice or equity, in consistency, feasibility, or safety. It is, in fact, the clumsiest clause in the Constitution. It makes the vote of Nebraska or Florida of the same weight as that of New York or Pennsylvania; and if the delegation of a State, chosen two years before, happens to be politically divided, the voice of their constituents is extinguished, unless it is rescued by the terrible temptation to bribery. Rarely could any satisfactory result accrue from such an artificial, anti-republican arrangement, while all the probabilities point to crises productive of bitter excitement among the people and of a serious strain upon the government.

Such in outline are the main defects of our electoral machinery. We should not make any progress in attempting to cure them without first getting a clear idea of the political changes which have brought these defects so glaringly to light. One reason why our fathers made this part of the Constitution so different from what we should do, if we had to do it anew, was, that their expectations of the average character of the Presidents to be chosen by it were so unlike ours. General Hamilton in the "Federalist," reviewing the electoral provisions, says with great solemnity: "This process of election affords a moral certainty that the office of President will seldom fall to the lot of any man who is not in an eminent degree endowed with the requisite qualifications." Indeed, he continues: "It will not be too strong to say, that there will be a constant probability of seeing the station filled by characters *pre-eminent for ability and virtue.*" It is too strong to say that. We may still hope, indeed, that Presidents of the United States positively unworthy will rarely, if ever, be seen; but we

are forced to conclude that the prospect of the choice falling upon our best statesmen, our *élite* of ability and virtue, is nearly as exceptional. The processes calculated to produce this conviction have been in operation during at least a third of a century, — long enough to stifle in defeat the honorable aspirations of a Clay, a Webster, and a Cass, — and the war period gave them an irresistible impulse. Power has been transferred from the executive to the legislative branch of the government, so diminishing the importance and prestige of incumbency in the former that a candidate for the Presidency has come to be selected mainly on the ground of availability, that is, as affording a good watchword and rallying cry for an electioneering campaign. The paramount object is generally party success, and the Presidential nomination is made with a view to that rather than to the highest efficiency in office. First-class statesmanship, with the boldness, vigor, and long service which the term implies, hardly accords with such a limited *rôle*; and, indeed, would hardly find room for its exercise in discharging the ordinary duties of the office, should its possessor happen to be elected. We are not to expect, then, to see another Jefferson, Madison, or John Quincy Adams in the Presidential chair; and if we ever see another Abraham Lincoln, it will be due to some such misapprehension as that which masked, in the person of a successful stump speaker of good sense and popular qualities, the grand, providential requisites for an unseen crisis. Hence it may be doubted whether, so far as the Presidency alone is concerned, it would be worth while to go to the trouble of changing, through Constitutional amendment, the provisions we have been considering. The anticipation, so often expressed, that a change of machinery will give us a higher order of Presidents, is not warranted, because no change is possible which will not facilitate the tendencies of the times toward complete party ascendancy. In short, precisely what the framers of the Constitution sought to avoid by their method of choosing Presidents, — namely, the domination of party, — we must seek to bring about fairly and equitably by the improvement of their method.

It would seem that by this time the prevailing tone of publicists — our own as well as those of other countries — respect-

ing parties as something which may be and certainly ought to be discarded from all respectable political communities, should be laid aside. Not to dwell upon the inferences to be drawn from the ancient nations, the varied and instructive political history of England and our own constant experience as a free people leave no room whatever to doubt that parties—and normally but two coexistent parties—are among the inevitable conditions for the conduct of constitutional government. They are not, therefore, to be called “necessary evils” in any other sense than that in which the phrase may be applied to the government itself; for what are they but the people in the broadest and simplest classification in which we are accustomed to find them? In themselves, being of purely instrumental nature, they are destitute of moral quality. While it is obvious that a good cause may suffer somewhat in its ideal purity before it can be realized and applied through party machinery, it is equally obvious that the party action of a great many individuals is far better than we should be warranted in expecting from their personal characters. In the long run, and as a general rule, parties are neither better nor worse than the people who compose them,—that is, the whole people of the country. They arise from the fact that in no other way can movements which are to end in needed laws take form, get consistency and organization, and adapt themselves to the times, in the midst of what would otherwise be a mere mass of individuals, with as many notions and shades of notions as there would be minds to entertain them; and the same law that calls parties into existence as clearly limits them ordinarily to two, since more destroy their value as sifting and decisive agencies of public opinion. They are the upper and nether millstones, the two blades of the scissors, the plaintiff and defendant sides in court; and usually in practice they are the progressive and conservative principles of society, distinctively organized and brought to bear upon the questions of the times. A third party is either an outgrown one on the way to extinction or a new one coming to displace that which lags superfluous on the stage. In short, it is impossible to conceive of the American people except as arrayed in antagonistic political organizations. The folly of attempting to recast our electoral

machinery with the hope of ignoring, evading, or counteracting the power of parties, ought to be sufficiently evident from the mere recollection how completely the working of the present system has been wrenched from the intentions of its devisers who cherished that same hope. Any reform must start with the assumption, not only that parties will always exist in the Republic, but that their highest energy will be exerted in the choice of President and Vice-President, and that their efficiency therein is to be facilitated rather than frustrated. This consideration will save intelligent reformers from wasting their ingenuity in efforts to remedy certain alleged defects of our electoral system, as, for instance, that it does not allow a voter to discriminate between candidates for President and for Vice-President, so that he may select one from one ticket and the other from another; or that it does not give a person a chance to vote as he wishes, unless there are enough persons of his opinion in the same State to get up an electoral ticket. If the rule is to be that every voter is a member of a national party, then he will choose to vote for none but his two candidates; and if his party is not strong enough to have local tickets everywhere, it is of no use for its members to enter into a Presidential contest. The exceptional cases which have been cited under this head were owing to the terrorism of slavery, and can never be repeated.

Of the numerous plans which have been proposed to supersede the present electoral system, a few of a representative character will suffice for consideration. The idea of choosing the President and Vice-President directly by the people has been carefully embodied in a proposed amendment of the Constitution, drawn up and submitted to the United States Senate by Hon. Charles Sumner. Its main points are as follows: The regular Presidential election is to be held on the first Monday of April, and the result in each State and Territory is to be certified and forwarded to the seat of government as Congress by law may direct. On the Tuesday next succeeding the third Monday in May, the returns shall be opened in joint convention of the two Houses of Congress, and the person having a majority of the votes cast shall be President. If no person have such majority, or the person having it decline the

office or die before the counting of the vote, then the President of the Senate shall so proclaim, and the proceedings shall be officially published, and another election shall be held on the following second Tuesday of October, at which the three persons having the highest number of votes at the preceding April election shall be voted for by the people. These votes shall be counted in Congress on the third Tuesday in December following, and the result proclaimed. In case of a vacancy occurring in the office of the President, the members of Congress in joint convention shall proceed to elect by *viva voce* vote a President to fill such vacancy, each member having one vote, and a majority being requisite for election. The President shall not be eligible for re-election; and the office of Vice-President shall be abolished.

In the preamble to this plan, Senator Sumner states that he is moved by a desire "to supersede the caucus or convention, so that it shall no longer be the engine for the nomination of the President," or the instrument of his will after he is elected. But how the proposed change is going to effect that object he does not explain, and no one, probably, will be able to see. Does Senator Sumner imagine that, under his plan, the people of the United States would go to the polls and vote according to their individual preferences, without previous party or other consultation? Parties, certainly, would continue to exist precisely as under the present system; partisan concert of action would be equally necessary to success; and caucuses, or something similar, would be just as indispensable to such concert of action. The chief motive, therefore, of Mr. Sumner's plan fails. The objections to it on the score of fraud we have already presented in contrasting the risks of the three main systems in this respect, and they seem to us insurmountable. Secondly, in basing Presidential elections entirely upon the popular vote, without regard to State lines, and in rejecting that equal element of Senatorial representation which now forms a part of the electoral vote of every State, the harmony of our governmental system is materially impaired. It was meant that the President, as the head of the Federal Union, should be elected by the States as well as by the people; and since the principle has worked well in practice, there is no rea-

son for sanctioning an innovation which would probably next be extended to the representation in the United States Senate, and might not stop till the balance of the government was destroyed. But, thirdly, whatever may be the inherent force of the last-mentioned consideration, there is not the slightest doubt that its practical influence will always be sufficient, with a sufficient number of the smaller States, to make the agitation of this or any other plan of electing the President directly by popular vote utterly useless. Ten States, as the Union is now, can defeat any proposed Constitutional amendment. It so happens that ten States can be indicated which have all together but twenty members of the House of Representatives, but which, under the Constitution, have *forty* Presidential electors, while New York, with thirty-three Representatives, has but thirty-five Presidential electors. That is, those States have their power in a Presidential election increased one hundred per cent, while the power of New York is increased only about six per cent. Will those States — and the same question might equally well be asked of half a dozen other States — ever be induced to relinquish such advantages? There is no prospect of reform in this direction.

Another plan which may be fairly put at the head of the many propositions to substitute the district system for the general ticket system, without impairing the federative principle of the equality of the States, now secured by the Constitution to the people in voting for President and Vice-President, is the following, which was presented to Congress some years ago, but never acted upon.

ARTICLE.

The electors of President and Vice-President shall be chosen as follows: —

Two electors of President and Vice-President shall be chosen at large, from each State, by the qualified voters therein.

A number of electors in each State equal to the whole number of Representatives to which such State may be entitled in Congress shall be chosen in single districts of contiguous and compact territory, each containing, as near as practicable, an equal amount of population.

Congress shall prescribe the mode of determining the validity of the choice of electors, and of contesting the right to the office of President and Vice-President.

The merits of this plan are obvious. It allows the voice of the States, as States, its just, or constitutional, force and expression, while it collects the will of the people by as close a local division as the nature of the case will permit. It reduces the effect of frauds to a minimum, and correspondingly removes the temptation to commit them. These are great advantages. The most obvious objection to the plan will be found in the necessity it involves of marking off the electoral districts of a State, which may open the door to the heinous fraud of "gerrymandering,"—an objection, indeed, which attaches to any form of the district system yet proposed, and which might practically neutralize all its advantages. The above scheme does not specify whether the apportionment should be made by State or by national authority ; but, clearly, it should not be by the latter, for then the whole electoral machinery of the Union might receive a partisan distortion on one side, whereas the States, even if acting in the matter under a strong partisan bias, might in a measure offset one another ; besides, the power, according to the principles of our system, would seem to belong to the States. Or if any national requirement should be made in the premises, it might be to the effect that the electoral districts should correspond in all cases with the Congressional districts,—two electors-at-large being chosen by the voters of the whole State,—which would still leave the apportionment in the control of the States, but, by blending it with an apportionment for other purposes, would diminish the temptations to unfairness. The plan, also, as forming a part of the Constitution, should clearly specify—and not leave to Congress to prescribe—"the mode of determining the validity of the choice of electors," which is one of the most vital needs of the present system. We should naturally say that the right of counting and declaring the votes thrown for Presidential electors could not be more safely deposited than with the Governor and Council of a State, if it had not been for the experience of Louisiana at the last Presidential election, when there were rival Governors, to neither of whom could such a function have been safely committed. Although such an instance may never occur again, it might be advisable to require that this determination of the validity of electors should be exercised

by the Supreme Court of each State, or by the United States circuit or district court having jurisdiction within it. Another omission of the plan is its silence with regard to non-election by the people,—a point which we will consider hereafter. It will have been noticed that the plan, if adopted, would still leave the Presidential electors untouched, together with many of the disadvantages attaching to such an intermediate body, as, for instance, the inability of the voter to use the names of the persons he is actually voting for, thus keeping up the old roundabout, confusing, and apparently useless process; the danger of the electors finally casting their votes in defiance of the people who had chosen them; and their liability to accidents, which might prevent them from depositing their votes according to the requirements of law.

When, therefore, we have got so far in schemes of reform, why not take a step farther and abolish the electoral college altogether? The only difficulty, of course, is in providing a satisfactory substitute, having reference not only to existing evils, but to “those we know not of.” It has been proposed that, the electoral college having been dispensed with, each State should be declared entitled, as now, to a number of Presidential votes equal to the number of its Senators and Representatives in Congress. These votes, gathered from the result at the polls,—where the ballots should bear the names of the candidates for President and Vice-President voted for,—should be certified to by the Governor, or the Supreme Court, as the Constitution should require, and forwarded to Congress; the certification being final, and leaving Congress no discretion in regard to counting the votes. Such a plan, while preserving to the States their Constitutional measure of power over the Presidency, would efface all the evils and liabilities to abuse belonging to the electoral bodies; but it would retain the vote by States, with its imperfect collection of the popular will, occasional injustice, and the excessive influence of frauds in the larger States. If the latter drawbacks could be removed, the plan would seem to be at least in the right direction. One method of doing this—that is, of dividing the Presidential vote of a State according to the popular division manifested at the polls—might be accomplished through the principle of

minority representation. The footings of the votes of the two parties on election day would show what proportion of the Presidential votes of the State each party would be entitled to. Thus if the State should have twelve Presidential votes, and there should be 60,000 ballots cast by one party and 84,000 by the other, then the candidates of the latter should be declared to have received seven of the electoral votes to the rival candidates' five. The difficulty of making an accurate fractional division of the electoral votes need not be regarded as serious, for any general arrangement for that purpose would bear equally upon the opposing parties in the great majority of cases, and would be no more severe than the ordinary hardships of the apportionment system, while wholly exempt from the fraudulent element too often adhering to that system in practice. Or, perhaps, the same object might be attained in this way: Two of the Presidential or electoral votes should be credited to the State at large, the others belonging to the several Congressional districts. All the ballots at a Presidential election should be marked according to the district in which they were cast, — as "Maine, First Congressional District," etc. The counting by districts, therefore, would determine the electoral vote of each district, while the footing up of the whole would give the result as to the two electoral votes at large. This method would be entirely in harmony with the Constitutional theory of the Presidency, and, joined to some safe plan of certification and the other desirable reforms indicated above, would seem to afford as good a framework as any other for bringing this problem to a practical solution.

There remains the contingency of non-election by the people, not often to be encountered under the modern tendency of parties, but still possible, and too important to be unprovided for. In such an event we believe it is by all means advisable that the people should be called upon to do their work over again, as Mr. Sumner's plan provides. At the first thought it appears something like a hardship to subject the country to a second Presidential election in a single season; but an election is an election, and it is no more trouble to go to the polls to elect a President of the United States than to choose the humblest local officer. The decision would be reached as

quickly in this way as if it were left to Congress, with far less, and less deleterious, excitement, and infinitely more satisfaction over the result. If, then, the Presidential election should be held as now in November, or, still better, in October, the completely certified votes of all the States, — even if some one or more of them should have been compelled to remedy the defects of a first election, — would be ready for Congress at its meeting in December, in season to have the result proclaimed by the President, and, if necessary, another election appointed in January, under the condition that the voting should be confined to the two highest candidates at the first election.

If, however, it should be deemed best, in the event of a failure to elect a President and Vice-President by the people, to throw the election into Congress, then the present method of taking the vote there should be done away, root and branch. The true mode of procedure would be for both Houses of Congress to meet in joint convention, each Senator and Representative having one vote. This plan has met the approval of both Senator Sumner and Senator Morton, the latter saying of it: "This would be in exact harmony with the principles upon which the election is now to be made by the people of the several States." With regard to this measure of electoral reform, at least, we do not think there can be diversity of opinion enough among reflecting men to call for any argument.

ART. V. — *On Intelligence*. By H. TAINE, D. C. L., Oxon.

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As an historian of art and literature, M. Taine is known to all the world. His lucid and sparkling expositions of the characteristics of Italian and Flemish painting, and his brilliant delineations of the distinctive traits of English authors, are familiar to every intelligent reader. As a metaphysician, however, we fear that he has yet been hardly noticed. We